



U.S. SENATE COMMITTEE ON

Finance

SENATOR CHUCK GRASSLEY, OF IOWA - CHAIRMAN

<http://finance.senate.gov>

MEMORANDUM

To: Reporters and Editors
Re: Global settlement
Da: Friday, May 2, 2003

Sen. Chuck Grassley, chairman of the Committee on Finance, today made the following comment on a report in today's New York Post that some of the Wall Street firms that were parties to this week's "global settlement" are trying to recoup millions of dollars of their settlement payment from insurers. This week, Grassley, Sen. Max Baucus, ranking member of the Committee on Finance, and Sen. John McCain, chairman of the Commerce Committee, introduced legislation to make clear that payments made to acknowledge actual or potential violations of any law are not tax-deductible.

"I'm very disappointed but not surprised. This is the outcome that many of us predicted and many on Wall Street schemed to achieve. Common sense tells you it's not much punishment when someone else is picking up the tab. I said this settlement was half a loaf. Maybe it'll be just a slice of bread. The legislation Senators Baucus and McCain and I introduced will address the tax deductibility of fines and penalties in settlements. Insurance regulation is mostly a state issue, and a function of the type of contracts insurers and their clients sign. But the SEC and the state attorneys general could have and should have prevented the insurance grab resulting from the settlement. Senators Baucus, McCain and I made this point clear months ago."

Today's New York Post story follows.

NOW MORGAN TRIES TO PASS BUCK TO INSURERS

By ERIC MOSKOWITZ

May 2, 2003 --

Morgan Stanley may finally be trying to say the right things publicly, but the white-shoe firm is secretly attempting to recoup as much as \$100 million from its global research settlement payment, say sources.

And Morgan Stanley's not alone.

Credit Suisse First Boston is currently in state supreme court, seeking \$70 million worth of reimbursements from its \$100 million fine paid to regulators for alleged IPO-related infractions in January 2002.

"The case could very well set a precedent for whether or not parts of this settlement are covered by insurance," said Joe Finnerty III, head of litigation at New York-based law firm Piper Rudnick.

Wall Street's insurers were hoping for stricter language in Monday's global research settlement that would prevent firms such as Morgan Stanley from seeking reimbursement on nearly three-fourths of the total fines.

"I think the Securities and Exchange Commission sold the insurers out," said one insurance company executive, who represents several of the banks' insurers.

"That being said, I don't think anyone on the insurance side has changed their resolve on this after the settlement," the executive added.

Senate Finance Committee Chairman Charles Grassley this week has constructed a bill to prevent the 10 Wall Street firms from taking tax write-offs on the SEC fines. But as it stands now, the only portion of the \$1.4 billion settlement that isn't reimbursable is the \$487.5 million in penalties.

That means \$912.5 million is in play, in what insurance experts are saying will be a multimillion-dollar, multi-year battle in the court system.

Morgan Stanley, for example, is already girding for litigation with its insurer, Lloyd's of London, in hopes of recouping as much as \$100 million of its \$125 million owed, say sources.

It can recoup so much because only 20 percent of its total fine - \$25 million - was slotted under penalties, with the rest falling under disgorgement, independent research and investor education.

Credit Suisse First Boston, which was meeting regularly with its insurer, Chubb, before the announced settlement, is now reconsidering its policy on this issue, and may decide not to pursue reimbursement due to the bad publicity it may generate for the firm, says one insider.

The firm declined to comment on its policy or its pending court case with Chubb.

Citigroup's Salomon Smith Barney, which owes the heftiest fine of \$400 million, also declined to comment.

Goldman Sachs and Lehman Bros. have said publicly they will not seek reimbursement on their settlement fines.

